IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

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| THE STATE OF ARIZONA, | ) | |
| | ) | 2 CA-CR 2006-0369 |
| Appellee, | ) | DEPARTMENT B |
| | ) | |
| v. | ) | MEMORANDUM DECISION |
| | ) | Not for Publication |
| DIEGO MANUEL OQUITA, | ) | Rule 111, Rules of |
| | ) | the Supreme Court |
| Appellant. | ) | |
| | ) | |

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20054181

Honorable Hector E. Campoy, Judge

AFFIRMED

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Emily Danies — Tucson
Attorney for Appellant

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E S P I N O S A, Judge.

**¶1** After a jury trial, appellant Diego Oquita was convicted of aggravated driving under the influence of an intoxicating liquor or a drug (DUI) and aggravated driving with an illegal drug or its metabolite in his body, both while his license was suspended, revoked or restricted, and of committing the same two offenses while having two or more prior DUI convictions or violations. In addition to those four felonies, he was also convicted of

possessing cocaine, a narcotic drug, and drug paraphernalia. The trial court found Oquita to have one historical prior felony conviction and sentenced him to six mitigated, concurrent terms of imprisonment, the five longest for 3.5 years.

**¶2** Counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999), avowing she has reviewed the entire record and found no arguable legal issue to raise on appeal. In compliance with *Clark*, counsel has provided "a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record." 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Oquita has not filed a supplemental brief.

**¶3** Pursuant to our obligation under *Anders*, we have reviewed the record in its entirety and are satisfied it supports counsel's recitation of the facts. Viewed in the light most favorable to upholding the jury's verdicts, *see State v. Tamplin*, 195 Ariz. 246, ¶ 2, 986 P.2d 914, 914 (App. 1999), the evidence established that on February 23, 2005, Pima County sheriff's detective Daniel Suden had observed Oquita driving erratically before stopping his vehicle in a private parking lot. Oquita was unable to provide a credible explanation for his driving when questioned, and Suden noticed Oquita's eyes were glassy and he appeared to be twitching involuntarily. Suden advised Oquita of his rights pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966), and obtained Oquita's consent to search his vehicle. In the vehicle's center console, Suden found a small plastic bag containing a white

powder he suspected was cocaine. After telling Suden he needed to urinate, Oquita agreed to provide a urine sample.

**¶4** Criminalists for the Arizona Department of Public Safety determined that the plastic bag contained a usable quantity of cocaine and that Oquita's urine sample indicated the presence of metabolites of tetrahydrocannabinol, the active component in marijuana; metabolites of cocaine; and oxycodone, a narcotic analgesic. According to certified copies of records from Tucson City Court and Cochise County Justice Court, Oquita had been previously convicted of DUI offenses occurring on November 11, 2000, and July 13, 2001. A deputy custodian of records for the Arizona Department of Transportation, Motor Vehicle Division (MVD), testified that Oquita's driver's license had been suspended in July 2001 and had never been reinstated. The MVD record in evidence indicated Oquita's license had been suspended as a result of his July 13, 2001, DUI violation.

**¶5** Oquita's counsel suggests the trial court's denial of Oquita's motion to suppress the urinalysis report "may provide the appearance of an arguable issue" on appeal. In that motion, Oquita argued his agreement to provide a urine sample had not been voluntary because he was "under internal pressure to relieve himself at the time that he signed the consent." The record reflects, however, the trial court's ruling on this issue was well-supported by the evidence and not an abuse of the court's discretion. *See State v. Sanchez*, 200 Ariz. 163, ¶ 5, 24 P.3d 610, 612 (App. 2001) (motions to suppress evidence reviewed for clear abuse of discretion).

**¶6** Substantial evidence supported findings of all the elements necessary for Oquita's convictions, and the sentences imposed by the trial court were within the statutory range authorized by A.R.S. § 13-603. We find no error warranting reversal and therefore affirm Oquita's convictions and sentences.

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PHILIP G. ESPINOSA, Judge

CONCURRING:

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PETER J. ECKERSTROM, Presiding Judge

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GARYE L. VÁSQUEZ, Judge